

**SUPERIOR COURT
OF THE
STATE OF DELAWARE**

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

July 25, 2006

N440 - State Mail
Donald L Dailey, Sr.

Sussex Correctional Institution
P. O. Box 500
Georgetown, DE 19947

RE: Defendant ID No. 0210012813 (R-2)

Dear Mr. Dailey:

On July 18, 2006, you filed your second Motion for Postconviction Relief. It is 38 pages in length and has a 138 page Appendix. After studying same, I have determined that it must be denied.

This is your second Motion for Postconviction Relief. Your first Motion for Postconviction Relief was denied by decision of this Court on June 28, 2005. It sets forth the history of the case which does not need to be repeated in this decision. It also notes that you had previously filed an appeal with the Delaware Supreme Court attacking the sentence you received as to the three counts of rape in the 3rd degree. Your sentence was affirmed. *Dailey v. State*, 2004 Del. Lexis 110 (Del., 2004). I incorporate the Supreme Court's history of the events also for purposes of this decision.

In your first Rule 61 application, you made an assortment of allegations such as ineffective assistance of counsel, attacks concerning recanted transcripts from your sons, allegations that confessions and/or statements had been coerced, allegations that your ex-wife, the mother of your children, had promised them gifts in return for testimony against you, that there was insufficient investigation and suppression of favorable evidence, such as the witnesses were not questioned about recantations, and that their mother's background was not investigated to see if she has a pattern of false accusations against the Defendant. That Motion for Postconviction Relief as aforesaid was denied on June 28, 2005. There was no appeal taken to the Delaware Supreme Court as to that ruling.

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In your present Motion for Postconviction Relief, you attack the attorney that was privately retained as well as the Court-appointed attorney who subsequently took over the case. You also attack the prosecutor. And finally you attack the Court, including matters that were resolved in your direct appeal to the Supreme Court.

PROCEDURAL BAR

This present action is procedurally barred for two reasons. You have made these complaints before and they were adjudicated by way of the appeal to the Delaware Supreme Court and this Court's ruling on June 28, 2005. Because of the former adjudication, they are barred under Rule 61(i)(4).

They are also barred as being a repetitive Motion under Rule 61(i)(2). To the extent you seek to build on your previous allegations and embellish same with new allegations, I find that by not asserting all grounds for relief in the first Motion, you are procedurally barred from attempting to raise new claims.

For the reasons set forth in my decision of June 28, 2005, I find that none of these claims are warranted in the interest of justice. There should be closure in this case; and therefore your Motion is denied as being procedurally barred.

IT IS SO ORDERED.

Yours very truly,

T. Henley Graves

THG:baj
cc: Prothonotary
Department of Justice